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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,998	12/15/2003	Oskar Stangier	4070-178U1	2979
<div>7590      03/19/2007 AKIN GUMP STRAUSS HAUER &amp; FELD LLP One Commerce Square Suite 2200 2005 Market Street Philadelphia, PA 19103-7013</div>			<div>EXAMINER HUSON, MONICA ANNE</div>	
			<div>ART UNIT 1732</div>	<div>PAPER NUMBER</div>
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/19/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/735,998	<b>Applicant(s)</b> STANGIER, OSKAR	
	<b>Examiner</b> Monica A. Huson	<b>Art Unit</b> 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/659305.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This office action is in response to the Amendment filed 21 September 2006.

#### ***Claim Objections***

Claim 32 is objected to because of the following informalities: The claim is missing final punctuation. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation "the preform" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 35 recites the limitation "the preform" in line 1. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-25, and 29-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Kertesz (U.S. Patent 5,443,098), in view of Rober et al. (U.S. Patent 5,500,263), further in view of Tachi et al. (U.S. Patent 5,443,874). Regarding Claim 19, Kertesz shows that it is known to carry out a method for producing a connecting element for sealing and non-releasable connection to a hollow body of a thermoplastic material (Abstract), the process comprising the steps of providing a composite of thermoplastic material comprising multilayers (Figure 2, multilayer composite = layers 1a+2a), forming a hollow body (Column 1, lines 16-17; hollow body=fuel tank), separately forming a connecting element in a press shaping step by press shaping the composite between two mating platens (Column 3, lines 39-54; press shaping= injection molding, mating platens= injection mold halves), and subsequently non-releasably sealing and connecting the separately-formed connecting element to the hollow body (Column 4, lines 15-18). Kertesz does not show that his composite material is extrudate from a multilayer preform in a coextrusion blow molding process. Rober et al., hereafter "Rober," show that it is known to carry out a method wherein a laminate of thermoplastic material from an extrudate from a multilayer preform in a coextrusion process is provided (Column 4, lines 54-58). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Rober's extrudate as Kertesz's multilayer composite in order to pre-arrange all layers prior to the press molding step. Kertesz also does not show a multilayer hollow body made by blow molding. Tachi et al., hereafter "Tachi," show that it is known to carry out a method including forming a multilayer hollow body by blow molding (Abstract; Column 1, lines 23-27; Column 7, lines 46-55). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Tachi's multilayer blow-molded hollow article as that in Kertesz's molding process in order to take advantage of various properties imparted by the specific layers (see Tachi, Column 1, lines 6-16).

Regarding Claim 20, Kertesz shows the process as claimed as discussed in the rejection of Claim 19 above, including a method wherein two mating platens comprise male and female mold portions (Column 3, lines 43-53; note that injection molding processes implicitly utilize female and male mold portions), meeting applicant's claim.

Regarding Claim 21, Kertesz shows the process as claimed as discussed in the rejection of Claim 19 above, including showing the press shaping step being performed in one working operation with the manufacture of the hollow tank (Column 3, lines 43-53; Column 4, lines 15-18; it is being interpreted that "one working operation" includes all the time it takes to manufacture one tank and one connector element). Kertesz also does not show a multilayer hollow body made by blow molding. Tachi shows that it is known to carry out a method including forming a multilayer hollow body by blow molding (Abstract; Column 1, lines 23-27; Column 7, lines 46-55). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Tachi's multilayer blow-molded hollow article as that in Kertesz's molding process in order to take advantage of various properties imparted by the specific layers (see Tachi, Column 1, lines 6-16).

Regarding Claim 22, Kertesz shows the process as claimed as discussed in the rejection of Claim 19 above, but he does not show specifics of the multilayer laminate. Rober shows that it is known to carry out a method wherein the laminate has a low level of permeability to hydrocarbons (Column 1, lines 45-46; good barrier action=low permeability). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Rober's laminate as that in Kertesz's molding process in order to reduce permeation of fuels to an acceptable level.

Regarding Claim 23, Kertesz shows the process as claimed as discussed in the rejection of Claim 22 above, but he does not show specifics of the multilayer laminate. Rober shows that it is known to carry out a method

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wherein the laminate comprises at least one barrier layer for hydrocarbons (Column 1, lines 44-60). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Rober's laminate as that in Kertesz's molding process in order to reduce permeation of fuels to an acceptable level.

Regarding Claim 24, Kertesz shows the process as claimed as discussed in the rejection of Claim 23 above, but he does not show specifics of the multilayer laminate. Rober shows that it is known to carry out a method wherein the at least one barrier layer is at least almost completely embedded into the laminate (Column 1, lines 49-60). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Rober's laminate as that in Kertesz's molding process in order to reduce permeation of fuels to an acceptable level.

Regarding Claim 25, Kertesz shows the process as claimed as discussed in the rejection of Claim 23 above, but he does not show specifics of the multilayer laminate. Rober shows that it is known to carry out a method wherein the laminate includes a cylindrical portion and the barrier layer extends at least in a region of the cylindrical portion of the connecting element near an inside wall thereof (Column 1, lines 49-60; it is being interpreted that the extrusion comprises a cylindrical element, and the barrier layer extends the length of the extrusion; it is noted that "near an inside wall" is a fairly broad limitation that can be interpreted to include widely-varying locations). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Rober's laminate as that in Kertesz's molding process in order to reduce permeation of fuels to an acceptable level in the desired areas of the connecting element.

Regarding Claim 29, Kertesz shows the process as claimed as discussed in the rejection of Claim 22 above, including a method wherein the hollow body is a fuel tank (Column 1, lines 17-19), meeting applicant's claim.

Regarding Claim 30, Kertesz shows the process as claimed as discussed in the rejection of Claim 29 above, including a method wherein the connecting element is in a form of an insert adapted for fitting to the fuel tank in a sealed relationship thereof (Figure 2, element 2a, 1a, 6, 7; Column 4, lines 15-17), meeting applicant's claim.

Regarding Claim 31, Kertesz shows the process as claimed as discussed in the rejection of Claim 30 above, including a method wherein the sealing and connecting step comprises joining the thermoplastic materials of the insert and the fuel tank (Column 4, lines 15-17), meeting applicant's claim.

Regarding Claim 32, Kertesz shows the process as claimed as discussed in the rejection of Claim 31 above, including a method wherein the joining comprises welding the insert to the fuel tank (Column 4, lines 15-17), meeting applicant's claim.

Regarding Claim 33, Kertesz shows the process as claimed as discussed in the rejection of Claim 32 above, including a method wherein the welding includes friction welding (Column 2, lines 42-45; it is being interpreted that rotary welding will include the action of friction welding in a rotational direction), meeting applicant's claim.

Regarding Claim 34, Kertesz shows the process as claimed as discussed in the rejection of Claim 19 above, including a method wherein the press shaping step comprises press shaping the preform in a first heating step to a definitive shape of the connecting element (Column 4, lines 2, lines 49-53), meeting applicant's claim.

Regarding Claim 35, Kertesz shows the process as claimed as discussed in the rejection of Claim 19 above, including a method wherein the preform is extruded in a form of the tube having oppositely disposed walls which are pressed against each other in the press shaping step (Column 3, lines 39-54), meeting applicant's claim.

Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kertesz, Rober, and Tachi, further in view of Thomas (U.S. Patent 4,919,855).

Regarding Claim 26, Kertesz shows the process as claimed as discussed in the rejection of Claim 23 above, but he does not show using a first and second barrier layer. Thomas shows that it is known to carry out a method of molding a container wherein the laminate comprises at least first and second barrier layers (Column 2, lines 48-49). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Thomas' barrier layers in the process of Kertesz in order to produce an article that functions within desired parameters.

Regarding Claim 27, Kertesz shows the process as claimed as discussed in the rejection of Claim 26 above, including showing a connecting body that has a main body substantially comprising polyethylene (Table 3), but he does not show using a barrier layer. Thomas shows that it is known to carry out a method of molding a container wherein the barrier layers are embedded in the main body (Column 2, lines 16-20). It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Thomas' barrier layers' location teaching in the process of Kertesz in order to produce an article that functions within desired parameters.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kertesz and Thomas, further in view of Yoshida et al. (U.S. Patent 5,855,926). Kertesz shows the process as claimed as discussed in the rejection of Claim 11 above, but he does not show using a specific material for a barrier layer. Yoshida et al., hereafter "Yoshida," show that it is known to carry out a method for molding a container wherein the barrier layers comprise EVOH (Column 4, lines 55-58). Yoshida and Kertesz are combinable because they are concerned with a similar technical field, namely, methods of molding multilayer



containers. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Yoshida's specific barrier layer in the process of Kertesz in order to produce an article that functions within desired parameters.

### ***Response to Arguments***

Applicant's arguments with respect to claims 19-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A. Huson whose telephone number is 571-272-1198. The examiner can normally be reached on Monday-Friday 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Monica A Huson

March 16, 2007

  
CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER

3/14/07